



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,749	03/09/2004	Michael D. Richardson	1604-470	4228

22442 7590 06/10/2005

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

EXAMINER

VAN, QUANG T

ART UNIT PAPER NUMBER

3742

DATE MAILED: 06/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

②

Office Action Summary	Application No. 10/797,749	Applicant(s) RICHARDSON ET AL.	
	Examiner Quang T. Van	Art Unit 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on telephoned interview on 6/3/05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 1-19 and 24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20, 22, 23 and 25-27 is/are rejected.
- 7) ☒ Claim(s) 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/23/04&5/17/04</u> . | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

1. Applicant's election without traverse of Species I (figures 1-5, claims 20-27) by phone of Mr. Bruce A. Kugler on June 3, 2005 is acknowledged. However, claim 24 is not read on elected Species (Figures 1-5), but on figures 7-10. Non-elected claims 1-19 and 24 are withdrawn from consideration. Claims 20-23 and 25-27 are treated on the merit.

Specification

2. The abstract of the disclosure is objected to because it should avoid using phrases which can be implied, such as "is disclosed", "are disclosed", "**the invention relates to**" etc. Correction is required. See MPEP § 608.01(b).

3. The specification is objected to because of the following informalities:
"4,4689,458", recited on page 1, line 25, has a typo error and should be changed to "4,689,458". Correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 20, 22-23, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rea (US 6,165,115). Rea discloses a process for closing and a hermetically sealing a bottom of a container comprising a container comprising a metallic sidewall portion (12, col. 3, lines 4-7) comprising a lower end and an upper end (figure 1); a

Art Unit: 3742

metallic lid (15, col. 3, lines 10-13) which is sealingly interconnected to said upper end of said metallic sidewall portion (12); a microwavable transparent bottom (24) which is interconnected to said lower end of said metallic sidewall portion (12), a reinforcing member (26) operably interconnected to a perimeter edge of said microwavable transparent bottom (24) and a lower end of said metallic sidewall portion (12, figure 9c). However, Rea does not disclose a container height of at least about 2 inches, a bottom surface area of at least about 1.25 square inches. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make a container height of at least about 2 inches, a bottom surface area of at least about 1.25 square inches in order to contain a right amount of food which suitable for the user.

6. Claims 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rea (US 6,165,115) in view of Adami et al (Des. 345,081). Rea discloses substantially all features of the claimed invention except said removable plastic lid comprising a plurality of apertures. Adami discloses a removable plastic lid comprising a plurality of apertures (figure 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Rea a removable plastic lid comprising a plurality of apertures as taught by Adami in order to allow the venting of steam and heat during cooking.

7. Claim 21 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 3742

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang T. Van whose telephone number is 571-272-4789. The examiner can normally be reached on 8:00Am 7:00Pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

QV

QV
June 6, 2005

Quang T Van

Quang T Van
Primary Examiner
Art Unit 3742